

## **Part 3**

### **Child Support Services Act**

#### **62A-11-301 Title.**

This part is known as the "Child Support Services Act."

Amended by Chapter 161, 2000 General Session

#### **62A-11-302 Common-law and statutory remedies augmented by act -- Public policy.**

The state of Utah, exercising its police and sovereign power, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of minor dependent children shall be augmented by this part, which is directed to the real and personal property resources of the responsible parents. In order to render resources more immediately available to meet the needs of minor children, it is the legislative intent that the remedies provided in this part are in addition to, and not in lieu of, existing law. It is declared to be the public policy of this state that this part be liberally construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs.

Enacted by Chapter 1, 1988 General Session

#### **62A-11-303 Definitions.**

As used in this part:

- (1) "Adjudicative proceeding" means an action or proceeding of the office conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (2) "Administrative order" means an order that has been issued by the office, the department, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.
- (3) "Assistance" or "public assistance" is defined in Section 62A-11-103.
- (4) "Business day" means a day on which state offices are open for regular business.
- (5) "Child" means:
  - (a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;
  - (b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or
  - (c) a son or daughter of any age who is incapacitated from earning a living and is without sufficient means.
- (6) "Child support" is defined in Section 62A-11-401.
- (7) "Child support guidelines" or "guidelines" is defined in Section 78B-12-102.
- (8) "Child support order" or "support order" is defined in Section 62A-11-401.
- (9) "Child support services" or "IV-D child support services" is defined in Section 62A-11-103.
- (10) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction of this state, another state, Native American tribe, the federal government, or any other comparable jurisdiction.
- (11) "Director" means the director of the Office of Recovery Services.
- (12) "Disposable earnings" is defined in Section 62A-11-103.

- (13) "High-volume automated administrative enforcement" in interstate cases means, on the request of another state, the identification by the office, through automatic data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in the requesting state, and the seizure of the assets by the office, through levy or other appropriate processes.
- (14) "Income" is defined in Section 62A-11-103.
- (15) "Notice of agency action" means the notice required to commence an adjudicative proceeding in accordance with Section 63G-4-201.
- (16) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of child support or public assistance.
- (17) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a duty of support to this state, to an individual, to another state, or other corporate jurisdiction in whose behalf this state is acting.
- (18) "Office" is defined in Section 62A-11-103.
- (19) "Parent" means a natural parent or an adoptive parent of a dependent child.
- (20) "Person" includes an individual, firm, corporation, association, political subdivision, department, or office.
- (21) "Presiding officer" means a presiding officer described in Section 63G-4-103.
- (22) "Support" includes past-due, present, and future obligations established by:
  - (a) a tribunal or imposed by law for the financial support, maintenance, medical, or dental care of a dependent child; and
  - (b) a tribunal for the financial support of a spouse or former spouse with whom the obligor's dependent child resides if the obligor also owes a child support obligation that is being enforced by the state.
- (23) "Support debt," "past-due support," or "arrear" means the debt created by nonpayment of support.
- (24) "Tribunal" means the district court, the Department of Human Services, the Office of Recovery Services, or court or administrative agency of any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

#### **62A-11-303.5 Application for child support services.**

Any person applying to the office for child support services shall be required to attest to the truthfulness of the information contained in the application. The attestation shall indicate that the person believes that all information provided is true and correct to the best of their knowledge and that knowingly providing false or misleading information is a violation of Section 76-8-504 and may result in prosecution, case closure for failure to cooperate, or both.

Enacted by Chapter 60, 2002 General Session

#### **62A-11-303.7 Annual fee for child support services to a custodial parent who has not received TANF assistance.**

- (1) The office shall impose an annual fee of \$25 in each case in which services are provided by the office if:

- (a) the custodial parent who received the services has never received assistance under a state program funded under Title IV, Part A of the Social Security Act; and
  - (b) the office has collected at least \$500 of child support in the case.
- (2) The fee described in Subsection (1) shall be:
- (a) subject to Subsection (3), retained by the office from child support collected on behalf of the custodial parent described in Subsection (1)(a); or
  - (b) paid by the custodial parent described in Subsection (1)(a).
- (3) A fee retained under Subsection (2)(a) may not be retained from the first \$500 of child support collected in the case.
- (4) The fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the office for the purpose of collecting child support.

Enacted by Chapter 184, 2007 General Session

**62A-11-304.1 Expedited procedures for establishing paternity or establishing, modifying, or enforcing a support order.**

- (1) The office may, without the necessity of initiating an adjudicative proceeding or obtaining an order from any other judicial or administrative tribunal, take the following actions related to the establishment of paternity or the establishment, modification, or enforcement of a support order, and to recognize and enforce the authority of state agencies of other states to take the following actions:
- (a) require a child, mother, and alleged father to submit to genetic testing;
  - (b) subpoena financial or other information needed to establish, modify, or enforce a support order, including:
    - (i) the name, address, and employer of a person who owes or is owed support that appears on the customer records of public utilities and cable television companies; and
    - (ii) information held by financial institutions on such things as the assets and liabilities of a person who owes or is owed support;
  - (c) require a public or private employer to promptly disclose information to the office on the name, address, date of birth, social security number, employment status, compensation, and benefits, including health insurance, of any person employed as an employee or contractor by the employer;
  - (d) require an insurance organization subject to Title 31A, Insurance Code, or an insurance administrator of a self-insured employer to promptly disclose to the office health insurance information pertaining to an insured or an insured's dependents, if known;
  - (e) obtain access to information in the records and automated databases of other state and local government agencies, including:
    - (i) marriage, birth, and divorce records;
    - (ii) state and local tax and revenue records providing information on such things as residential and mailing addresses, employers, income, and assets;
    - (iii) real and titled personal property records;
    - (iv) records concerning occupational and professional licenses and the ownership and control of corporations, partnerships, and other business entities;
    - (v) employment security records;
    - (vi) records of agencies administering public assistance programs;
    - (vii) motor vehicle department records; and
    - (viii) corrections records;

- (f) upon providing notice to the obligor and obligee, direct an obligor or other payor to change the payee to the office if support has been assigned to the office under Section 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42 U.S.C. Sec. 654B;
  - (g) order income withholding in accordance with Part 4, Income Withholding in IV-D Cases;
  - (h) secure assets to satisfy past-due support by:
    - (i) intercepting or seizing periodic or lump-sum payments from:
      - (A) a state or local government agency, including unemployment compensation, workers' compensation, and other benefits; and
      - (B) judgments, settlements, and lotteries;
    - (ii) attaching and seizing assets of an obligor held in financial institutions;
    - (iii) attaching public and private retirement funds, if the obligor presently:
      - (A) receives periodic payments; or
      - (B) has the authority to withdraw some or all of the funds; and
    - (iv) imposing liens against real and personal property in accordance with this section and Section 62A-11-312.5; and
  - (i) increase monthly payments in accordance with Section 62A-11-320.
- (2)
- (a) When taking action under Subsection (1), the office shall send notice under this Subsection (2)(a) to the person or entity who is required to comply with the action if not a party to a case receiving IV-D services.
  - (b) The notice described in Subsection (2)(a) shall include:
    - (i) the authority of the office to take the action;
    - (ii) the response required by the recipient;
    - (iii) the opportunity to provide clarifying information to the office under Subsection (2)(c);
    - (iv) the name and telephone number of a person in the office who can respond to inquiries; and
    - (v) the protection from criminal and civil liability extended under Subsection (7).
  - (c) The recipient of a notice sent under this Subsection (2) shall promptly comply with the terms of the notice and may, if the recipient believes the office's request is in error, send clarifying information to the office setting forth the basis for the recipient's belief.
- (3) The office shall in any case in which it requires genetic testing under Subsection (1)(a):
- (a) consider clarifying information if submitted by the obligee and alleged father;
  - (b) proceed with testing as the office considers appropriate;
  - (c) pay the cost of the tests, subject to recoupment from the alleged father if paternity is established;
  - (d) order a second test if the original test result is challenged, and the challenger pays the cost of the second test in advance; and
  - (e) require that the genetic test is:
    - (i) of a type generally acknowledged as reliable by accreditation bodies designated by the federal Secretary of Health and Human Services; and
    - (ii) performed by a laboratory approved by such an accreditation body.
- (4) The office may impose a penalty against an entity for failing to provide information requested in a subpoena issued under Subsection (1) as follows:
- (a) \$25 for each failure to provide requested information; or
  - (b) \$500 if the failure to provide requested information is the result of a conspiracy between the entity and the obligor to not supply the requested information or to supply false or incomplete information.
- (5)

- (a) Unless a court or administrative agency has reduced past-due support to a sum certain judgment, the office shall provide concurrent notice to an obligor in accordance with Section 62A-11-304.4 of:
    - (i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b) if Subsection (5)(b)(iii) does not apply; and
    - (ii) the opportunity of the obligor to contest the action and the amount claimed to be past-due by filing a written request for an adjudicative proceeding with the office within 15 days of notice being sent.
  - (b)
    - (i) Upon receipt of a notice of levy from the office for an action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b), a person in possession of personal property of the obligor shall:
      - (A) secure the property from unauthorized transfer or disposition as required by Section 62A-11-313; and
      - (B) surrender the property to the office after 21 days of receiving the notice unless the office has notified the person to release all or part of the property to the obligor.
    - (ii) Unless released by the office, a notice of levy upon personal property shall be:
      - (A) valid for 60 days; and
      - (B) effective against any additional property which the obligor may deposit or transfer into the possession of the person up to the amount of the levy.
    - (iii) If the property upon which the office imposes a levy is insufficient to satisfy the specified amount of past-due support and the obligor fails to contest that amount under Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b) against additional property of the obligor until the amount specified and the reasonable costs of collection are fully paid.
  - (c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds resulting from action requiring notice under Subsection (5)(a)(i) until:
    - (i) 21 days after notice was sent to the obligor; and
    - (ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has exhausted the obligor's administrative remedies and, if appealed to a district court, the district court has rendered a final decision.
  - (d) Before intercepting or seizing any periodic or lump-sum payment under Subsection (1)(h)(i)(A), the office shall:
    - (i) comply with Subsection 59-10-529(4)(a); and
    - (ii) include in the notice required by Subsection 59-10-529(4)(a) reference to Subsection (1)(h)(i)(A).
  - (e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal property of the obligor shall be in accordance with Section 62A-11-312.5.
- (6) All information received under this section is subject to Title 63G, Chapter 2, Government Records Access and Management Act.
  - (7) No employer, financial institution, public utility, cable company, insurance organization, its agent or employee, or related entity may be civilly or criminally liable for providing information to the office or taking any other action requested by the office pursuant to this section.
  - (8) The actions the office may take under Subsection (1) are in addition to the actions the office may take pursuant to Part 4, Income Withholding in IV-D Cases.

Amended by Chapter 212, 2009 General Session

**62A-11-304.2 Issuance or modification of administrative order -- Compliance with court order -- Authority of office -- Stipulated agreements -- Notification requirements.**

- (1) Through an adjudicative proceeding the office may issue or modify an administrative order that:
  - (a) determines paternity;
  - (b) determines whether an obligor owes support;
  - (c) determines temporary orders of child support upon clear and convincing evidence of paternity in the form of genetic test results or other evidence;
  - (d) requires an obligor to pay a specific or determinable amount of present and future support;
  - (e) determines the amount of past-due support;
  - (f) orders an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated;
  - (g) imposes a penalty authorized under this chapter;
  - (h) determines an issue that may be specifically contested under this chapter by a party who timely files a written request for an adjudicative proceeding with the office; and
  - (i) renews an administrative judgment.
- (2)
  - (a) An abstract of a final administrative order issued under this section or a notice of judgment-lien under Section 62A-11-312.5 may be filed with the clerk of any district court.
  - (b) Upon a filing under Subsection (2)(a), the clerk of the court shall:
    - (i) docket the abstract or notice in the judgment docket of the court and note the time of receipt on the abstract or notice and in the judgment docket; and
    - (ii) at the request of the office, place a copy of the abstract or notice in the file of a child support action involving the same parties.
- (3) If a judicial order has been issued, the office may not issue an order under Subsection (1) that is not based on the judicial order, except:
  - (a) the office may establish a new obligation in those cases in which the juvenile court has ordered the parties to meet with the office to determine the support pursuant to Section 78A-6-1106; or
  - (b) the office may issue an order of current support in accordance with the child support guidelines if the conditions of Subsection 78B-14-207(2)(c) are met.
- (4) The office may proceed under this section in the name of this state, another state under Section 62A-11-305, any department of this state, the office, or the obligee.
- (5) The office may accept voluntary acknowledgment of a support obligation and enter into stipulated agreements providing for the issuance of an administrative order under this part.
- (6) The office may act in the name of the obligee in endorsing and cashing any drafts, checks, money orders, or other negotiable instruments received by the office for support.
- (7) The obligor shall, after a notice of agency action has been served on the obligor in accordance with Section 63G-4-201, keep the office informed of:
  - (a) the obligor's current address;
  - (b) the name and address of current payors of income;
  - (c) availability of or access to health insurance coverage; and
  - (d) applicable health insurance policy information.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

**62A-11-304.4 Filing of location information -- Service of process.**

- (1)
  - (a) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur:
    - (i) with the court or administrative agency that conducted the proceeding; and
    - (ii) after October 1, 1998, with the state case registry.
  - (b) The identifying information required under Subsection (1)(a) shall include the person's Social Security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address, and telephone number of employers, and any other data required by the United States Secretary of Health and Human Services.
  - (c) In any subsequent child support action involving the office or between the parties, state due process requirements for notice and service of process shall be satisfied as to a party upon:
    - (i) a sufficient showing that diligent effort has been made to ascertain the location of the party; and
    - (ii) delivery of notice to the most recent residential or employer address filed with the court, administrative agency, or state case registry under Subsection (1)(a).
- (2)
  - (a) The office shall provide individuals who are applying for or receiving services under this chapter or who are parties to cases in which services are being provided under this chapter:
    - (i) with notice of all proceedings in which support obligations might be established or modified; and
    - (ii) with a copy of any order establishing or modifying a child support obligation, or in the case of a petition for modification, a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.
  - (b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall be provided in accordance with Section 78B-14-614.
- (3) Service of all notices and orders under this part shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or this section.
- (4) Consistent with Title 63G, Chapter 2, Government Records Access and Management Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or disclosure of information relating to a proceeding to:
  - (a) establish paternity; or
  - (b) establish or enforce support.
- (5)
  - (a) The office shall, upon written request, provide location information available in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel provided that:
    - (i) the party seeking the information produces a copy of the parent-time order signed by the court;
    - (ii) the information has not been safeguarded in accordance with Section 454 of the Social Security Act;
    - (iii) the party whose location is being sought has been afforded notice in accordance with this section of the opportunity to contest release of the information;
    - (iv) the party whose location is being sought has not provided the office with a copy of a protective order, a current court order prohibiting disclosure, a current court order limiting or prohibiting the requesting person's contact with the party or child whose location is being

- sought, a criminal order, an administrative order pursuant to Section 62A-4a-1009, or documentation of a pending proceeding for any of the above; and
- (v) there is no other state or federal law that would prohibit disclosure.
  - (b) "Location information" shall consist of the current residential address of the custodial or noncustodial parent and, if different and known to the office, the current residence of any children who are the subject of the parent-time order. If there is no current residential address available, the person's place of employment and any other location information shall be disclosed.
  - (c) For the purposes of this section, "reason to believe" under Section 454 of the Social Security Act means that the person seeking to safeguard information has provided to the office a copy of a protective order, current court order prohibiting disclosure, current court order prohibiting or limiting the requesting person's contact with the party or child whose location is being sought, criminal order signed by a court of competent jurisdiction, an administrative order pursuant to Section 62A-4a-1009, or documentation of a pending proceeding for any of the above.
  - (d) Neither the state, the department, the office nor its employees shall be liable for any information released in accordance with this section.
- (6) Custodial or noncustodial parents or their legal representatives who are denied location information in accordance with Subsection (5) may serve the Office of Recovery Services to initiate an action to obtain the information.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

#### **62A-11-304.5 Financial institutions.**

- (1) The office shall enter into agreements with financial institutions doing business in the state:
  - (a) to develop and operate, in coordination with such financial institutions, a data match system that:
    - (i) uses automated data exchanges to the maximum extent feasible; and
    - (ii) requires a financial institution each calendar quarter to provide the name, record address, social security number, other taxpayer identification number, or other identifying information for each obligor who:
      - (A) maintains an account at the institution; and
      - (B) owes past-due support as identified by the office by name and social security number or other taxpayer identification number; and
  - (b) to require a financial institution upon receipt of a notice of lien to encumber or surrender assets held by the institution on behalf of an obligor who is subject to a child support lien in accordance with Section 62A-11-304.1.
- (2) The office may pay a reasonable fee to a financial institution for compliance with Subsection (1) (a), which may not exceed the actual costs incurred.
- (3) A financial institution may not be liable under any federal or state law to any person for any disclosure of information or action taken in good faith under Subsection (1).
- (4) The office may disclose a financial record obtained from a financial institution under this section only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation.
- (5) If an employee of the office knowingly, or by reason of negligence, discloses a financial record of an individual in violation of Subsection (4), the individual may bring a civil action for damages

in a district court of the United States as provided for in the Social Security Act, 42 U.S.C. Sec. 669A.

- (6) The office shall provide notice and disburse funds seized or encumbered under this section in accordance with Section 62A-11-304.1.

Enacted by Chapter 232, 1997 General Session

**62A-11-305 Support collection services requested by agency of another state.**

- (1) In accordance with Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, the office may proceed to issue or modify an order under Section 62A-11-304.2 to collect under this part from an obligor who is located in or is a resident of this state regardless of the presence or residence of the obligee if:
- (a) support collection services are requested by an agency of another state that is operating under Part IV-D of the Social Security Act; or
  - (b) an individual applies for services.
- (2) The office shall use high-volume automated administrative enforcement, to the same extent it is used for intrastate cases, in response to a request made by another state's IV-D child support agency to enforce support orders.
- (3) A request by another state shall constitute a certification by the requesting state:
- (a) of the amount of support under the order of payment of which is in arrears; and
  - (b) that the requesting state has complied with procedural due process requirements applicable to the case.
- (4) The office shall give automated administrative interstate enforcement requests the same priority as a two-state referral received from another state to enforce a support order.
- (5) The office shall promptly report the results of the enforcement procedures to the requesting state.
- (6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall maintain records of:
- (a) the number of requests for enforcement assistance received by the office under this section;
  - (b) the number of cases for which the state collected support in response to those requests; and
  - (c) the amount of support collected.

Amended by Chapter 45, 2015 General Session

**62A-11-306.1 Issuance or modification of an order to collect support for persons not receiving public assistance.**

The office may proceed to issue or modify an order under Section 62A-11-304.2 and collect under this part even though public assistance is not being provided on behalf of a dependent child if the office provides support collection services in accordance with:

- (1) an application for services provided under Title IV-D of the federal Social Security Act;
- (2) the continued service provisions of Subsection 62A-11-307.2(5); or
- (3) the interstate provisions of Section 62A-11-305.

Amended by Chapter 232, 1997 General Session

**62A-11-306.2 Mandatory review and adjustment of child support orders for TANF recipients.**

If a child support order has not been issued, adjusted, or modified within the previous three years and the children who are the subject of the order currently receive TANF funds, the office

shall review the order, and if appropriate, move the tribunal to adjust the amount of the order if there is a difference of 10% or more between the payor's ordered support amount and the payor's support amount required under the guidelines.

Enacted by Chapter 282, 2007 General Session

**62A-11-307.1 Collection directly from responsible parent.**

- (1) The office may issue or modify an order under Section 62A-11-304.2 and collect under this part directly from a responsible parent if the procedural requirements of applicable law have been met and if public assistance is provided on behalf of that parent's dependent child. The direct right to issue an order under this Subsection (1) is independent of and in addition to the right derived from that assigned under Section 35A-3-108.
- (2) An order issuing or modifying a support obligation under Subsection (1), issued while public assistance was being provided for a dependent child, remains in effect and may be enforced by the office under Section 62A-11-306.1 after provision of public assistance ceases.
- (3)
  - (a) The office may issue or modify an administrative order, subject to the procedural requirements of applicable law, that requires that obligee to pay to the office assigned support that an obligee receives and retains in violation of Subsection 62A-11-307.2(4) and may reduce to judgment any unpaid balance due.
  - (b) The office may collect the judgment debt in the same manner as it collects any judgment for past-due support owed by an obligor.

Amended by Chapter 174, 1997 General Session

Amended by Chapter 232, 1997 General Session

**62A-11-307.2 Duties of obligee after assignment of support rights.**

- (1) An obligee whose rights to support have been assigned under Section 35A-3-108 as a condition of eligibility for public assistance has the following duties:
  - (a) Unless a good cause or other exception applies, the obligee shall, at the request of the office:
    - (i) cooperate in good faith with the office by providing the name and other identifying information of the other parent of the obligee's child for the purpose of:
      - (A) establishing paternity; or
      - (B) establishing, modifying, or enforcing a child support order;
    - (ii) supply additional necessary information and appear at interviews, hearings, and legal proceedings; and
    - (iii) submit the obligee's child and himself to judicially or administratively ordered genetic testing.
  - (b) The obligee may not commence an action against an obligor or file a pleading to collect or modify support without the office's written consent.
  - (c) The obligee may not do anything to prejudice the rights of the office to establish paternity, enforce provisions requiring health insurance, or to establish and collect support.
  - (d) The obligee may not agree to allow the obligor to change the court or administratively ordered manner or amount of payment of past, present, or future support without the office's written consent.
- (2)
  - (a) The office shall determine and redetermine, when appropriate, whether an obligee has cooperated with the office as required by Subsection (1)(a).

- (b) If the office determines that an obligee has not cooperated as required by Subsection (1)(a), the office shall:
  - (i) forward the determination and the basis for it to the Department of Workforce Services, which shall inform the Department of Health of the determination, for a determination of whether compliance by the obligee should be excused on the basis of good cause or other exception; and
  - (ii) send to the obligee:
    - (A) a copy of the notice; and
    - (B) information that the obligee may, within 15 days of notice being sent:
      - (I) contest the office's determination of noncooperation by filing a written request for an adjudicative proceeding with the office; or
      - (II) assert that compliance should be excused on the basis of good cause or other exception by filing a written request for a good cause exception with the Department of Workforce Services.
- (3) The office's right to recover is not reduced or terminated if an obligee agrees to allow the obligor to change the court or administratively ordered manner or amount of payment of support regardless of whether that agreement is entered into before or after public assistance is furnished on behalf of a dependent child.
- (4)
  - (a) If an obligee receives direct payment of assigned support from an obligor, the obligee shall immediately deliver that payment to the office.
  - (b)
    - (i) If an obligee agrees with an obligor to receive payment of support other than in the court or administratively ordered manner and receives payment as agreed with the obligor, the obligee shall immediately deliver the cash equivalent of the payment to the office.
    - (ii) If the amount delivered to the office by the obligee under Subsection (4)(b)(i) exceeds the amount of the court or administratively ordered support due, the office shall return the excess to the obligee.
- (5) If public assistance furnished on behalf of a dependent child is terminated, the office may continue to provide paternity establishment and support collection services. Unless the obligee notifies the office to discontinue these services, the obligee is considered to have accepted and is bound by the rights, duties, and liabilities of an obligee who has applied for those services.

Amended by Chapter 174, 1997 General Session

Amended by Chapter 232, 1997 General Session

**62A-11-312.5 Liens by operation of law and writs of garnishment.**

- (1) Each payment or installment of child support is, on and after the date it is due, a judgment with the same attributes and effect of any judgment of a district court in accordance with Section 78B-12-112 and for purposes of Section 78B-5-202.
- (2)
  - (a) A judgment under Subsection (1) or final administrative order shall constitute a lien against the real property of the obligor upon the filing of a notice of judgment-lien in the district court where the obligor's real property is located if the notice:
    - (i) specifies the amount of past-due support; and
    - (ii) complies with the procedural requirements of Section 78B-5-202.

- (b) Rule 69, Utah Rules of Civil Procedure, shall apply to any action brought to execute a judgment or final administrative order under this section against real or personal property in the obligor's possession.
- (3)
  - (a) The office may issue a writ of garnishment against the obligor's personal property in the possession of a third party for a judgment under Subsection (1) or a final administrative order in the same manner and with the same effect as if the writ were issued on a judgment of a district court if:
    - (i) the judgment or final administrative order is recorded on the office's automated case registry; and
    - (ii) the writ is signed by the director or the director's designee and served by certified mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure.
  - (b) A writ of garnishment issued under Subsection (3)(a) is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 62A-11-316.

Amended by Chapter 3, 2008 General Session

**62A-11-313 Effect of Lien.**

- (1) After receiving notice that a support lien has been filed under this part by the office, no person in possession of any property which may be subject to that lien may pay over, release, sell, transfer, encumber, or convey that property to any person other than the office, unless he first receives:
  - (a) a release or waiver thereof from the office; or
  - (b) a court order that orders release of the lien on the basis that the debt does not exist or has been satisfied.
- (2) Whenever any such person has in his possession earnings, deposits, accounts, or balances in excess of \$100 over the amount of the debt claimed by the office, that person may, without liability under this part, release that excess to the obligor.

Amended by Chapter 62, 1989 General Session

**62A-11-315.5 Enforcement of liens arising in another state.**

A lien arising in another state shall be accorded full faith and credit in this state, without any additional requirement of judicial notice or hearing prior to the enforcement of the lien, if the office, parent, or state IV-D agency who seeks to enforce the lien complies with Section 62A-11-304.1 or Section 62A-11-312.5.

Enacted by Chapter 232, 1997 General Session

**62A-11-316 Requirement to honor voluntary assignment of earnings -- Discharge of employee prohibited -- Liability for discharge -- Earnings subject to support lien or garnishment.**

- (1)
  - (a) Every person, firm, corporation, association, political subdivision, or department of the state shall honor, according to its terms, a duly executed voluntary assignment of earnings which is presented by the office as a plan to satisfy or retire a support debt or obligation.

- (b) The requirement to honor an assignment of earnings, and the assignment of earnings itself, are applicable whether the earnings are to be paid presently or in the future, and continue in effect until released in writing by the office.
- (c) Payment of money pursuant to an assignment of earnings presented by the office shall serve as full acquittance under any contract of employment, and the state shall defend the employer and hold him harmless for any action taken pursuant to the assignment of earnings.
- (d) The office shall be released from liability for improper receipt of money under an assignment of earnings upon return of any money so received.
- (2) An employer may not discharge or prejudice any employee because his earnings have been subjected to support lien, wage assignment, or garnishment for any indebtedness under this part.
- (3) If a person discharges an employee in violation of Subsection (2), he is liable to the employee for the damages he may suffer, and, additionally, to the office in an amount equal to the debt which is the basis of the assignment or garnishment, plus costs, interest, and attorneys' fees, or a maximum of \$1,000, whichever is less.
- (4) The maximum part of the aggregate disposable earnings of an individual for any work pay period which may be subjected to a garnishment to enforce payment of a judicial or administrative judgment arising out of failure to support dependent children may not exceed 50% of his disposable earnings for the work pay period.
- (5) The support lien or garnishment shall continue to operate and require that person to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until released in writing by the court or office.

Amended by Chapter 203, 1988 General Session

**62A-11-319 Release of lien, attachment, or garnishment by department.**

The office may, at any time, release a support lien, wage assignment, attachment, or garnishment on all or part of the property of the obligor, or return seized property without liability, if assurance of payment is considered adequate by the office, or if that action will facilitate collection of the support debt. However, that release or return does not prevent future action to collect from the same or other property. The office may also waive provisions providing for the collection of interest on accounts due, if that waiver would facilitate collection of the support debt.

Enacted by Chapter 1, 1988 General Session

**62A-11-320 Payment schedules.**

- (1) The office may:
  - (a) set or reset a level and schedule of payments at any time consistent with the income, earning capacity, and resources of the obligor; or
  - (b) demand payment in full.
- (2) If a support debt is reduced to a schedule of payments and made subject to income withholding, the total monthly amount of the scheduled payment, current support payment, and cost of health insurance attributable to a child for whom the obligor has been ordered may only be subject to income withholding in an amount that does not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673(b).
- (3)

- (a) Within 15 days of receiving notice, an obligor may contest a payment schedule as inconsistent with Subsection (2) or the rules adopted by the office to establish payment schedules under Subsection (1) by filing a written request for an adjudicative proceeding.
- (b) For purposes of Subsection (3)(a), notice includes:
  - (i) notice sent to the obligor by the office in accordance with Section 62A-11-304.4;
  - (ii) participation by the obligor in the proceedings related to the establishment of the payment schedule; and
  - (iii) receiving a paycheck in which a reduction has been made in accordance with a payment schedule established under Subsection (1).

Amended by Chapter 232, 1997 General Session

**62A-11-320.5 Review and adjustment of child support order in three-year cycle --  
Substantial change in circumstances not required.**

- (1) If a child support order has not been issued, modified, or reviewed within the previous three years, the office shall review a child support order, taking into account the best interests of the child involved, if:
  - (a) requested by a parent or legal guardian involved in a case receiving IV-D services; or
  - (b) there has been an assignment under Section 35A-3-108 and the office determines that a review is appropriate.
- (2) If the office conducts a review under Subsection (1), the office shall determine if there is a difference of 10% or more between the amount ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:
  - (a) with respect to a child support order issued or modified by the office, adjust the amount to that which is provided for in the guidelines; or
  - (b) with respect to a child support order issued or modified by a court, file a petition with the court to adjust the amount to that which is provided for in the guidelines.
- (3) The office may use automated methods to:
  - (a) collect information and conduct reviews under Subsection (2); and
  - (b) identify child support orders in which there is a difference of 10% or more between the amount of child support ordered and the amount that would be required under the child support guidelines for review under Subsection (1)(b).
- (4)
  - (a) A parent or legal guardian who requests a review under Subsection (1)(a) shall provide notice of the request to the other parent within five days and in accordance with Section 62A-11-304.4.
  - (b) If the office conducts a review under Subsections (1)(b) and (3)(b), the office shall provide notice to the parties of:
    - (i) a proposed adjustment under Subsection (2)(a); or
    - (ii) a proposed petition to be filed in court under Subsection (2)(b).
- (5)
  - (a) Within 30 days of notice being sent under Subsection (4)(a), a parent or legal guardian may respond to a request for review filed with the office.
  - (b) Within 30 days of notice being sent under Subsection (4)(b), a parent or legal guardian may contest a proposed adjustment or petition by requesting a review under Subsection (1)(a) and providing documentation that refutes the adjustment or petition.

- (6) A showing of a substantial change in circumstances is not necessary for an adjustment under this section.

Repealed and Re-enacted by Chapter 232, 1997 General Session

**62A-11-320.6 Review and adjustment of support order for substantial change in circumstances outside three-year cycle.**

- (1)
- (a) A parent or legal guardian involved in a case receiving IV-D services or the office, if there has been an assignment under Section 35A-3-108, may at any time request the office to review a child support order if there has been a substantial change in circumstances.
  - (b) For purposes of Subsection (1)(a), a substantial change in circumstances may include:
    - (i) material changes in custody;
    - (ii) material changes in the relative wealth or assets of the parties;
    - (iii) material changes of 30% or more in the income of a parent;
    - (iv) material changes in the ability of a parent to earn;
    - (v) material changes in the medical needs of the child; and
    - (vi) material changes in the legal responsibilities of either parent for the support of others.
- (2) Upon receiving a request under Subsection (1), the office shall review the order, taking into account the best interests of the child involved, to determine whether the substantial change in circumstance has occurred, and if so, whether the change resulted in a difference of 15% or more between the amount of child support ordered and the amount that would be required under the child support guidelines. If there is such a difference and the difference is not of a temporary nature, the office shall:
- (a) with respect to a support order issued or modified by the office, adjust the amount in accordance with the guidelines; or
  - (b) with respect to a support order issued or modified by a court, file a petition with the court to adjust the amount in accordance with the guidelines.
- (3) The office may use automated methods to collect information for a review conducted under Subsection (2).
- (4)
- (a) A parent or legal guardian who requests a review under Subsection (1) shall provide notice of the request to the other parent within five days and in accordance with Section 62A-11-304.4.
  - (b) If the office initiates and conducts a review under Subsection (1), the office shall provide notice of the request to any parent or legal guardian within five days and in accordance with Section 62A-11-304.4.
- (5) Within 30 days of notice being sent under Subsection (4), a parent or legal guardian may file a response to a request for review with the office.

Enacted by Chapter 232, 1997 General Session

**62A-11-320.7 Three-year notice of opportunity to review.**

- (1) Once every three years, the office shall give notice to each parent or legal guardian involved in a case receiving IV-D services of the opportunity to request a review and, if appropriate, adjustment of a child support order under Sections 62A-11-320.5 and 62A-11-320.6.
- (2)
- (a) The notice required by Subsection (1) may be included in an issued or modified order of support.

- (b) Notwithstanding Subsection (2)(a), the office shall comply with Subsection (1), three years after the date of the order issued or modified under Subsection (2)(a).

Enacted by Chapter 232, 1997 General Session

**62A-11-321 Posting bond or security for payment of support debt -- Procedure.**

- (1) The office shall, or an obligee may, petition the court for an order requiring an obligor to post a bond or provide other security for the payment of a support debt, if the office or an obligee determines that action is appropriate, and if the payments are more than 90 days delinquent. The office shall establish rules for determining when it shall seek an order for bond or other security.
- (2) When the office or an obligee petitions the court under this section, it shall give written notice to the obligor, stating:
  - (a) the amount of support debt;
  - (b) that it has petitioned the court for an order requiring the obligor to post security; and
  - (c) that the obligor has the right to appear before the court and contest the office's or obligee's petition.
- (3) After notice to the obligor and an opportunity for a hearing, the court shall order a bond posted or other security to be deposited upon the office's or obligee's showing of a support debt and of a reasonable basis for the security.

Enacted by Chapter 1, 1988 General Session

**62A-11-326 Medical and dental expenses of dependent children.**

In any action under this part, the office and the department in their orders shall:

- (1) include a provision assigning responsibility for cash medical support;
- (2) include a provision requiring the purchase and maintenance of appropriate medical, hospital, and dental care insurance for those children, if:
  - (a) insurance coverage is or becomes available at a reasonable cost; and
  - (b) the insurance coverage is accessible to the children; and
- (3) include a designation of which health, dental or hospital insurance plan, is primary and which is secondary in accordance with the provisions of Section 30-3-5.4 which will take effect if at any time the dependent children are covered by both parents' health, hospital, or dental insurance plans.

Amended by Chapter 285, 2010 General Session

**62A-11-326.1 Enrollment of child in accident and health insurance plan -- Order -- Notice.**

- (1) The office may issue a notice to existing and future employers or unions to enroll a dependent child in an accident and health insurance plan that is available through the dependent child's parent or legal guardian's employer or union, when the following conditions are satisfied:
  - (a) the parent or legal guardian is already required to obtain insurance coverage for the child by a prior court or administrative order; and
  - (b) the parent or legal guardian has failed to provide written proof to the office that:
    - (i) the child has been enrolled in an accident and health insurance plan in accordance with the court or administrative order; or
    - (ii) the coverage required by the order was not available at group rates through the employer or union 30 or more days prior to the date of the mailing of the notice to enroll.

- (2) The office shall provide concurrent notice to the parent or legal guardian in accordance with Section 62A-11-304.4 of:
  - (a) the notice to enroll sent to the employer or union; and
  - (b) the opportunity to contest the enrollment due to a mistake of fact by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.
- (3) A notice to enroll shall result in the enrollment of the child in the parent's accident and health insurance plan, unless the parent successfully contests the notice based on a mistake of fact.
- (4) A notice to enroll issued under this section may be considered a "qualified medical support order" for the purposes of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

Amended by Chapter 116, 2001 General Session

**62A-11-326.2 Compliance with order -- Enrollment of dependent child for insurance.**

- (1) An employer or union shall comply with a notice to enroll issued by the office under Section 62A-11-326.1 by enrolling the dependent child that is the subject of the notice in the:
  - (a) accident and health insurance plan in which the parent or legal guardian is enrolled, if the plan satisfies the prior court or administrative order; or
  - (b) least expensive plan, assuming equivalent benefits, offered by the employer or union that complies with the prior court or administrative order which provides coverage that is reasonably accessible to the dependent child.
- (2) The employer, union, or insurer may not refuse to enroll a dependent child pursuant to a notice to enroll because a parent or legal guardian has not signed an enrollment application.
- (3) Upon enrollment of the dependent child, the employer shall deduct the appropriate premiums from the parent or legal guardian's wages and remit them directly to the insurer.
- (4) The insurer shall provide proof of insurance to the office upon request.
- (5) The signature of the custodial parent of the insured dependent is a valid authorization to the insurer for purposes of processing any insurance reimbursement claim.

Amended by Chapter 116, 2001 General Session

**62A-11-326.3 Determination of parental liability.**

- (1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the office may determine by order the amount of a parent's liability for uninsured medical, hospital, and dental expenses of a dependent child, when the parent:
  - (a) is required by a prior court or administrative order to:
    - (i) share those expenses with the other parent of the dependent child; or
    - (ii) obtain medical, hospital, or dental care insurance but fails to do so; or
  - (b) receives direct payment from an insurer under insurance coverage obtained after the prior court or administrative order was issued.
- (2) If the prior court or administrative order does not specify what proportions of the expenses are to be shared, the office may determine the amount of liability in accordance with established rules.
- (3) This section applies to an order without regard to when it was issued.

Amended by Chapter 382, 2008 General Session

**62A-11-327 Reporting past-due support to consumer reporting agency.**

The office shall periodically report the name of any obligor who is delinquent in the payment of support and the amount of overdue support owed by the obligor to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a(f):

- (1) only after the obligor has been afforded notice and a reasonable opportunity to contest the accuracy of the information; and
- (2) only to an entity that has provided satisfactory evidence that it is a consumer reporting agency under 15 U.S.C. Sec. 1681a(f).

Repealed and Re-enacted by Chapter 232, 1997 General Session

**62A-11-328 Information received from State Tax Commission provided to other states' child support collection agencies.**

The office shall, upon request, provide to any other state's child support collection agency the information which it receives from the State Tax Commission under Subsection 59-1-403(3)(l), with regard to a support debt which that agency is involved in enforcing.

Amended by Chapter 31, 2009 General Session

**62A-11-333 Right to judicial review.**

- (1)
  - (a) Within 30 days of notice of any administrative action on the part of the office to establish paternity or establish, modify or enforce a child support order, the obligor may file a petition for de novo review with the district court.
  - (b) For purposes of Subsection (1)(a), notice includes:
    - (i) notice actually received by the obligor in accordance with Section 62A-11-304.4;
    - (ii) participation by the obligor in the proceedings related to the establishment of the paternity or the modification or enforcement of child support; or
    - (iii) receiving a paycheck in which a reduction has been made for child support.
- (2) The petition shall name the office and all other appropriate parties as respondents and meet the form requirements specified in Section 63G-4-402.
- (3) A copy of the petition shall be served upon the Child and Family Support Division of the Office of Attorney General.
- (4)
  - (a) If the petition is regarding the amount of the child support obligation established in accordance with Title 78B, Chapter 12, Utah Child Support Act, the court may issue a temporary order for child support until a final order is issued.
  - (b) The petitioner may file an affidavit stating the amount of child support reasonably believed to be due and the court may issue a temporary order for that amount. The temporary order shall be valid for 60 days, unless extended by the court while the action is being pursued.
  - (c) If the court upholds the amount of support established in Subsection (4)(a), the petitioner shall be ordered to make up the difference between the amount originally ordered in Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).
  - (d) This Subsection (4) does not apply to an action for the court-ordered modification of a judicial child support order.
- (5) The court may, on its own initiative and based on the evidence before it, determine whether the petitioner violated U.R. Civ. P. Rule 11 by filing the action. If the court determines that U.R.Civ.P. Rule 11 was violated, it shall, at a minimum, award to the office attorney fees and costs for the action.

(6) Nothing in this section precludes the obligor from seeking administrative remedies as provided in this chapter.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session